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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 29 1997

Federal Communications Commission
Office of Secretary

In the Matter of

MOBILEMEDIA CORPORATION, et al.

Applicant for Authorizations and Licensee
of Certain Stations in Various Services

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) WT Docket No. 97-115
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To: The Honorable Joseph Chachkin

**COMMENTS IN SUPPORT OF EMERGENCY MOTION
FOR SPECIAL RELIEF AND STAY OF PROCEEDINGS
REGARDING MOBILEMEDIA CORPORATION**

The Official Committee of Unsecured Creditors (the "Committee") of MobileMedia Corporation and its subsidiaries (collectively, "MobileMedia" or "the Company"),^{1/} by its attorneys,^{2/} hereby submits these comments in support of the Emergency Motion For Special Relief and Stay of Proceedings filed by MobileMedia in the above-captioned matter (the "Stay Motion").

The Committee represents thousands of unsecured creditors of MobileMedia, to whom the Company owes approximately \$500 million. Of these creditors, the largest

^{1/} The Committee, which is comprised of all of the unsecured creditors of MobileMedia, was appointed by the United States Trustee in the consolidated bankruptcy reorganization cases filed by MobileMedia on February 10, 1997, in the United States District Court for the District of Delaware, pursuant to Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330.

^{2/} Paul, Weiss has been asked by the Committee to serve as its attorneys for FCC matters. Paul, Weiss will not officially become counsel to the Committee until the Committee's pending application to retain the law firm is approved by the bankruptcy court.

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group are individuals and entities that own some \$440 million in MobileMedia bonds. Many of these bonds are held by individuals, although the preponderance are held by institutions, including pension funds, mutual funds, and life insurance companies. These latter types of institutional investors, of course, are investing the retirement and personal savings of tens of millions of Americans. The Committee is also acting on behalf of thousands of trade creditors, many of which are small businesses. The Committee thus takes seriously its obligation to secure for its members -- and ultimately for millions of individuals who have no connection to MobileMedia, but yet have a very real stake in the intertwined bankruptcy and FCC proceedings -- an outcome of these proceedings that will maximize the value of the Company.^{3/}

It is for this reason that the Committee strongly supports the Stay Motion. The stay requested by the Company is being requested solely to maximize MobileMedia's value for the benefit of creditors. Under Second Thursday^{4/} and its progeny, the FCC is required to consider this factor -- "the public interest in the protection of innocent creditors" -- in

^{3/} Because of its interest in the outcome of the Stay Motion, the Committee believes that it has standing to file the instant comments. See Hertz Broadcasting of Birmingham, Inc., 46 F.C.C.2d 350, 352 (Rev. Bd. 1974) (creditors may intervene in FCC hearing regarding a company in bankruptcy, when creditors have "a direct financial stake in the outcome of the proceeding"); Image Radio, Inc., 12 R.R.2d 671 (ALJ), aff'd, 13 F.C.C.2d 59 (Rev. Bd. 1968). The presiding judge need not reach this standing question, however; the instant pleading may be treated as informal comments in support of the Stay Motion. To the extent that leave is necessary to file these comments, such leave is hereby requested.

^{4/} See Second Thursday Corp., 22 F.C.C.2d 515, on reconsideration, 25 F.C.C.2d 112 (1970).

deciding whether to approve a transfer or assignment of license in a bankruptcy situation.^{5/} This same factor should be heavily weighted by the Commission in determining whether to grant the stay requested here.

The Committee agrees with the Company that there is no chance of any outcome of this proceeding except one that would satisfy the requirements of Second Thursday. MobileMedia will either be sold outright to a third party, with the proceeds going first to pay off the secured creditors and then the remaining proceeds used to pay off the unsecured creditors; or a plan of reorganization will be approved by the bankruptcy court, pursuant to which the unsecured creditors would become the owners of the Company, replacing entirely the current shareholders.^{6/} The Committee is working actively to bring about a quick reorganization, in coordination with representatives of the secured creditors and the Company's newly installed Chairman, Reorganization, Joseph Bondi.

Under these circumstances, there is no conceivable reason why the Commission would wish to proceed with a hearing with respect to MobileMedia. The administrative law judge and the staff of the Wireless Telecommunications Bureau would have to expend substantial resources on a hearing, resources that would ultimately prove to have been expended for no purpose if a Second Thursday solution is presented and approved.

^{5/} LaRose v. FCC, 494 F.C.C.2d 1145, 1146 (D.C. Cir. 1974).

^{6/} Although the traditional Second Thursday case has involved a sale of the company, it is clear that the doctrine applies as well to a reorganization "for purposes of continuing [a licensee's] operations." Cosmopolitan Enterprises, Inc., 63 F.C.C.2d 35, 42 (Rev. Bd. 1977), appeal dismissed, 73 F.C.C.2d 700 (1979).

As the Commission itself has recognized,^{7/} the public interest is not served by expending the resources required to conduct an FCC hearing, when it is likely that the subject of the hearing will ultimately engage in a Second Thursday transfer of its licenses.

Consistent with the objective of protecting innocent creditors, moreover, the Commission must take into consideration the fact that, if the hearing is not stayed, the Company would be forced to expend considerable resources at the hearing, depleting the Company's assets to the detriment of its creditors. The resources that would have to be expended are not just in the form of legal fees, although such fees could be expected to be considerable in a vigorously contested hearing before an administrative law judge. Of more importance, the Company's need to defend itself in the hearing would divert MobileMedia's management from the crucial task of rebuilding the Company and reorganizing it to meet the challenges of an increasingly competitive wireless communications marketplace. Every minute that the Company's management spends on hearing-related issues would be a minute taken away from the critical tasks of assuring that the Company retains its current customers and markets aggressively to obtain new ones. These latter tasks are the ones that are absolutely essential if the unsecured creditors are to recover any significant amount through a reorganization or sale of the Company.

As the D.C. Circuit has made clear, "[a]pplication of Second Thursday requires an ad hoc balancing of the possible injury to regulatory authority that might flow from wrongdoers' realization of benefit against the public interest in innocent creditors'

^{7/} See Oyate, Inc., 3 F.C.C. Rcd. 3940 (1988).

recovery from the sale and assignment of the license to a qualified party."^{8/} The Commission must engage in a similar balancing exercise in determining whether to grant the Stay Motion. Here, there will be no "wrongdoers' realization of benefit," as the Stay Motion makes clear; the existing shareholders will be left with no equity, and the current board of directors will be entirely replaced. Here, there is a strong "public interest in innocent creditors' recovery," as well as strong reasons to believe that the "innocent creditors' recovery" will be substantially enhanced by the Commission's granting of the finite, relatively short-term stay of the hearing requested by the Company. Under these circumstances, any realistic balancing leads ineluctably to the conclusion that the scales are entirely weighted on one side: toward the immediate granting of the requested stay.

CONCLUSION

For the foregoing reasons, the Official Committee of Unsecured Creditors of MobileMedia, on behalf of the millions of individuals whose retirement and personal savings

^{8/} LaRose, supra, 494 F.2d at 1149.

will ultimately be impacted by the Commission's decision, respectfully requests that the Commission grant MobileMedia's Stay Motion.

Respectfully submitted,

THE OFFICIAL COMMITTEE OF
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April 29, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 1997, I caused copies of the foregoing **COMMENTS IN SUPPORT OF EMERGENCY MOTION FOR SPECIAL RELIEF AND STAY OF PROCEEDINGS REGARDING MOBILEMEDIA CORPORATION** to be hand-delivered to the following:

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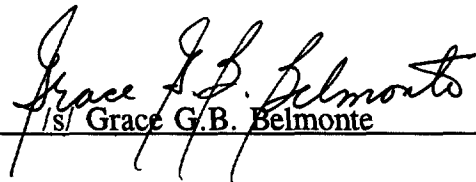
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